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Department of Water Resources

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Attorneys for TWIN FALLS, IDAHO
ISB# 2591

BEFORE THE DIRECTOR
OF THE IDAHO DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

* * * * *

IN THE MATTER OF APPLICATION FOR)
APPROVAL OF THE OCTOBER 10, 2003)
PRELIMINARY MITIGATION PLAN BY)
NORTH SNAKE AND MAGIC VALLEY) **NOTICE OF PROTEST**
GROUNDWATER DISTRICTS)

The City of Twin Falls, Idaho, an Idaho municipal corporation, by and through its attorneys of record, Wonderlich & Wakefield, hereby formally protest the above application for the approval of the North Snake Ground Water District and Magic Valley Ground Water District Mitigation Plan filed with the Idaho Department of Water Resources on October, 10, 2003.

Protestant, City of Twin Falls, Idaho urges that the proposed Preliminary Mitigation Plan be rejected as a Mitigation Plan for the following reasons:

1. The City of Twin Falls is a surface water user in Water District 130 utilizing flows from Blue Lakes Spring under various water rights with priorities from May 26, 1949 to March 29, 1966. Blue Lakes Spring discharge, as measured by the U. S. Geological Survey has decreased from 238 cubic feet per second in 1950 to approximately 166 cubic feet per second in 2002 (see attached chart). The minimum

flow necessary for the City of Twin Falls to be provided full water rights is 178.8 cubic feet per second. The water supply for the City is therefore being impacted by the decreases in discharge of Blue Lakes Spring.(see attached table)

2. The decreases measured in Blue Lakes Spring are similar to those of other major springs in the Thousand Springs reach including Box Canyon, Crystal, Niagara, and Curren Tunnel. The measured discharge decreases are a result of junior priority ground water pumping, water management changes over the aquifer such as conversion of surface to sprinkler irrigation, and fluctuation in annual basin water supplies.

3. The proposed 40,000 acre feet of annual replacement water proposed by the Districts equates to 55 cubic feet per second of annual average increase in net ground water recharge. U.S. Geological Survey estimates of discharge from springs emanating from the aquifer in the Thousand Springs reach indicate a decline in spring flow of over 1400 cubic feet per second since about 1960. Blue Lakes Spring has, by itself, experienced a decrease of 72 cubic feet per second in the last 52 years. Therefore, the proposed 40,000 acre feet of replacement water will be entirely insufficient to make a significant improvement in Blue Lakes Spring or any other springs in the reach.

4. The provision in the proposed plan to allow a deficit of 80,000 acre feet in the replacement water account to accrue before any specific action is taken is unacceptable and should not be approved. The plan is based on speculation that certain actions will be taken and not on certainty of performance.

5. Explicit enforcement provisions are absent in the proposed plan and the means for insuring compliance are lacking. No specific procedures for monitoring compliance and/or documentation of aquifer or spring response are offered.

6. No specific procedures are identified to show that the replacement water proposed will, in fact, provide water to affected senior users in time and location to assure beneficial use.

In summary, the proposed plan is insufficient to make a significant improvement in the Blue Lakes Spring or any other springs in the reach, deficient in specificity, does not assure that replacement water for mitigation will be available, and provides no means of documenting results. More importantly, contributing factors, including pumping by junior priority right holders, are adversely impacting the City's water rights. For all of the above reasons, the Preliminary Mitigation Plan submitted by the North Snake and Magic Valley Ground Water Districts should not be approved.

DATED this 21st day of November, 2003.

WONDERLICH & WAKEFIELD

By 
Fritz Wonderlich

CERTIFICATE OF SERVICE

I, the undersigned, certify that on the 21st day of November, 2003, I caused a true and correct copy of the **NOTICE OF PROTEST** to be forwarded with all required charges prepaid, by the method(s) indicated below, to the following person(s):

Jeffrey C. Fereday
Michael C. Creamer
Deborah E. Nelson
Givens Pursley, LLP
P.O. Box 2720
Boise, ID 83701-2720

Hand Deliver _____
U.S. Mail X ____
Fax _____

North Snake Ground Water District
152 E. Main St.
Jerome, ID 83338

Hand Deliver _____
U.S. Mail X ____
Fax _____

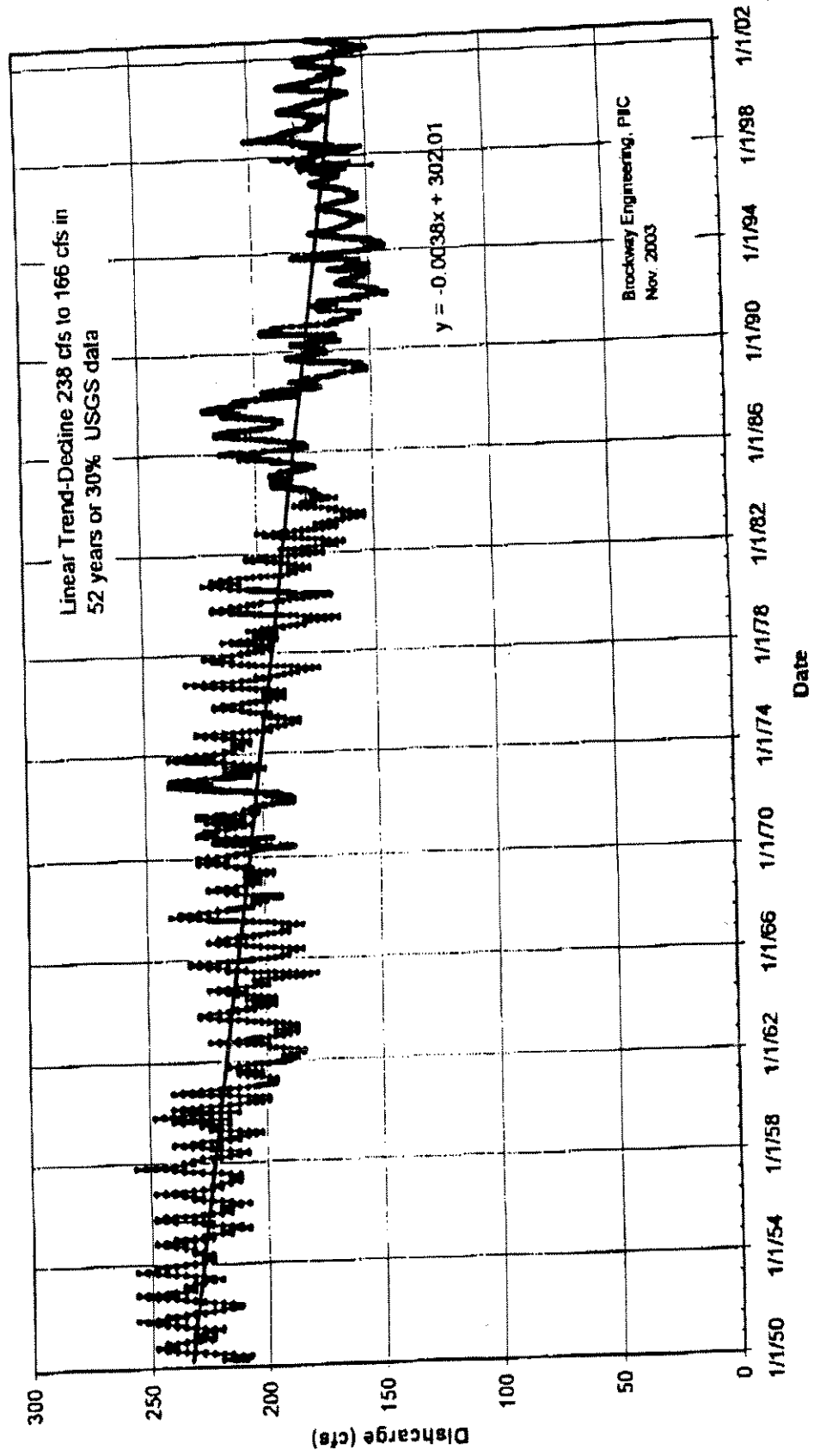
Magic Valley Ground Water District
453 West 900 North
Rupert, ID 83350

Hand Deliver _____
U.S. Mail X
Fax _____



Fritz Wonderlich

Blue Lakes Spring - Daily Discharge
1950-2002



ALPHAES CREEK WATER RIGHTS WATERMASTER LIST

Rank	Basin	Sequence	Sp/R	Basis	Owner List	Source	Priority Date	Diversion Rate	Accumulated Div.
1	36	2083 A		Decreed	BLUE LAKES COUNTRY CLUB INC (Current)	ALPHEUS CREEK	1949/05/26	1.15	1.15
1	36	2083 B		Decreed	BLUE LAKES COUNTRY CLUB INC (Current)	ALPHEUS CREEK	1949/05/26	0.05	1.20
2	36	2356 A		Decreed	BLUE LAKES TROUT FARM INC (Current)	ALPHEUS CREEK	1958/05/29	99.83	101.03
3	36	2603 C		Decreed	PRISTINE SPRINGS INC (Current)	ALPHEUS CREEK	1964/04/17	25.3	126.33
3	36	2603 A		Decreed	CITY OF TWIN FALLS (Current)	GROUND WATER	1964/04/17	45	171.33
4	36	2646		Decreed	CITY OF TWIN FALLS (Current)	GROUND WATER	1966/03/29	7.47	178.80 <<<<<
5	36	7210		Decreed	BLUE LAKES TROUT FARM INC (Current)	ALPHEUS CREEK	1971/11/17	45	223.80
6	36	7239		Decreed	SIMPLOT MC COLLUM DEVELOPMENT CO (Current)	SPRINGS	1972/04/24	6	229.80
7	36	7427		Decreed	BLUE LAKES TROUT FARM INC (Current)	ALPHEUS CREEK	1973/12/28	52.23	282.03
8	36	7757		Permit	PRISTINE SPRINGS INC (Current)	ALPHEUS CREEK	1977/10/27	215	
9	36	15455		Decreed	SIMPLOT MC COLLUM DEVELOPMENT CO (Current)	SPRINGS	1987/03/01	0.46	
10	36	8593		License	BLUE LAKES COUNTRY CLUB INC (Current)	ALPHEUS CREEK	1991/07/19	0.7	

reauthorized flows only, below Blue Lake Trout

Source: Cindy Hodges Yerlar-Watermaster Water District 130

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on this 24th day of November, 2003, he caused a true and correct copy of the within and foregoing document to be transmitted by U.S. mail to the following:

Michael C. Creamer
GIVENS PURSLEY, LLP
P.O. Box 2720
Boise, Idaho 83701



Daniel V. Steenson

Certificate of Service

The undersigned does hereby certify that on this 24th day of Nov., 2003, he or she caused a true and correct copy of the Protest of the Application of North Snake Ground Water District and Magic Valley Ground Water District for Approval of a Preliminary Mitigation Plan transmitted by U.S. mail to the following:

Jeffrey C. Fereday
Michael C. Creamer
Deborah E. Nelson
Givens Pursley, LLP
P.O. Box 2720
Boise, ID 83701-2720

and hand delivered to:

The Idaho Department of Water Resources
1301 North Orchard
Boise, Idaho 83706-2237

E. Joel McGarry